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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

SAUCY FRIED CHICKEN, LLC

Case No.: 23-42714 (ESS)

Debtor.

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**MOTION PURSUANT TO 11 U.S.C. § 365(d)(1)
FOR REJECTION OF LEASE BETWEEN DEBTOR
SAUCY FRIED CHICKEN AND LANDLORD ATHANASIOS M. MOURKAKOS,
PANAGIOTA G. MOURKAKOS AND VASILIKI MOURKAKOS**

**TO: THE HONORABLE ELIZABETH S. STONG
UNITED STATES BANKRUPTCY JUDGE**

Athanasios M. Mourkakos, Panagiota G. Mourkakos and Vasilis Mourkakos (collectively, the “Landlord”) submit this motion (the “Motion”) for an order substantially in the form annexed hereto as **Exhibit A** (the “Proposed Order”) directing the rejection of the unexpired lease (the “Saucy Lease”) between Saucy Fried Chicken LLC (the “Debtor”) and the Landlord as of the Petition Date (as defined below). In support of the Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Eastern District of New York (the “Court”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334.

2. Venue of the Chapter 7 Case is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicate for the relief requested herein is Section 365(d)(1) of title 11 of the United States Code (the “Bankruptcy Code”).

BACKGROUND

4. The Debtor operates a soul food restaurant at 25-89 Steinway Street, Queens, New York 11103.

5. The Debtor entered into a commercial real property lease with the Landlord on June 1, 2021. A copy of the commercial real property lease is attached as Exhibit “B”.

6. The Debtor, without explanation, ceased paying any rent or partial rent commencing in December 2021.

7. On June 6, 2023 the Debtor owed the Landlord \$74,500, which was not subject to any *bona fide* dispute.

8. On July 21, 2023, the Landlord filed an involuntary petition against the Debtor.

9. On August 1, 2023, the court issued a Summons.

10. On August 2, 2023, a Certificate of Service was filed under document number 4.

11. An Order for Relief was entered on September 5, 2023. Alan Nisselson was appointed the Chapter 7 Trustee on September 7, 2023.

12. Upon information and belief, the Debtor refused to cooperate with the Chapter 7 Trustee appointed in the case, and has continued to refuse to pay any rent. The time for the Chapter 7 Trustee to assume or reject the Debtor’s lease expired on November 4, 2023 and therefore the commercial real property lease must be rejected. 11 U.S.C. § 365(d)(1) states in pertinent part:

[I]f the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

13. The Chapter 7 Trustee has not assumed or rejected the Saucy Lease within the 60 days and therefore must be rejected.

14. The Landlord continues to suffer major financial loss as a result of the Debtor's failure to continue to pay rent.

15. No previous motion for the relief sought herein has been made by the Debtors to this or any other Court.

WHEREFORE, the Landlord respectfully requests that this Court enter the Proposed Order attached hereto as **Exhibit A** directing rejection of the Saucy Lease as of the Petition Date, and grant the Landlord such other and further relief as the Court deems just and proper.

Respectfully submitted,

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